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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,109	06/29/2001	Michael Borges		2069

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John B. Dickman, III  
Suite 1203  
2001 Jefferson Davis Highway  
Arlington, VA 22202

EXAMINER	
HORTON, YVONNE MICHELE	
ART UNIT	PAPER NUMBER

3635  
DATE MAILED: 03/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/814,109	Applicant(s) MICHAEL BORGES
Examiner YVONNE M. HORTON	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Jun 29, 2001

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4)  Claim(s) 1-10 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-10 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892) 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20)  Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,502,935 to DEMMER. DEMMER discloses a skylight conduit (10) including a roof mounted skylight (12) having a dome (22) in a roof aperture (14) for receiving light (15) from a roof (11); a ceiling mounted fixture (16) for mounting in a ceiling aperture (18) for conveying light (15) to the inside of a room (13); and a flexible light and air conducting tube (20) connected to the skylight (12) and ceiling mounted fixture (16) wherein the tube (20) has an inner reflective wall (54), column 7, lines 65-67, a outer fire retardant wall (56), and a insulating core (58). In regards to claims 5-7, the conduit (20) is round with pleats and is capable of being square in cross-section, column 8, lines 18-19. In reference to claim 8, the ceiling mounted fixture is translucent, column 6, lines 33 and 41.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,502,935 to DEMMER in view of US Patent #5,435,780 to AYLES. As detailed in paragraph 2 above, DEMMER discloses the basic claimed skylight conduit except for the reflective inner wall specifically being metallized plastic. AYLES teaches that it is known in the art to form the inner wall of a tube (14) out of metallized plastic, column 3, lines 42-48. Hence, it would have been obvious to one having ordinary skill in the art to form the inner wall of DEMMER out of the metallized plastic of AYLES in order to effectively allow the passage of sunlight from the roof, down the tubular member, and into the room.

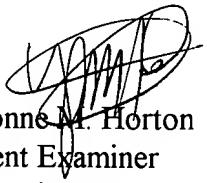
6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,502,935 to DEMMER in view of US Patent #5,435,780 to AYLES as applied to claim 1 above, and further in view of US Patent #4,339,900 to FREEMAN. DEMMER, as modified by AYLES, discloses the basic claimed skylight except for the outer wall specifically being metal foil. FREEMAN teaches that it is known in the art to form the outer wall of a tubular skylight conduit (17) out of metal foil, column 1, line 46. Hence, it would have been obvious to one having

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ordinary skill in the art to form the outer wall of DEMMER, as modified by AYLES with the outer wall of FREEMAN in order to maintain a highly reflective skylight conduit that is light weight and cost effective while also having a conduit that is capable of resisting fire damage.

7. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,502,935 to DEMMER. As disclosed in paragraph 2 above, DEMMER discloses the basic claimed skylight except for the ceiling mounted fixture being a material other than translucent and except for the skylight dome being white. Although DEMMER does not disclose this, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material on the basis of its suitability for the use intend as an obvious matter of design choice as long as the material transmits the optimum passage of light therethrough in order to effectively provide light into a room.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

  
Yvonne M. Horton  
Patent Examiner  
Art Unit 3635  
March 23, 2002

